

1 PROPOSED AMENDMENTS TO THE  
2 BIOSOLIDS USE REGULATIONS (12 VAC 5-585)  
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5 **12VAC 5-585-760. Certificate requirements for land applicators.**  
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7 A. No person shall land apply biosolids pursuant to a permit issued in accordance with  
8 this chapter unless an individual holding a valid certificate of competence as specified in  
9 this chapter (certified land applicator) is onsite at all times during such land application.  
10 Certified land applicators may be considered to be onsite if they are at the site permitted  
11 for land application and, if it is necessary to leave the site, they are available within 30  
12 minutes to return to the site to verify and ensure that land application of biosolids is in  
13 compliance with the issued permit. –Certified land applicators shall possess the site  
14 specific permit information necessary to conduct land application on the site in  
15 accordance with the issued permit and make available at the land application site proper  
16 identification, including their certificate number issued by VDH. -Monthly Reports  
17 submitted in accordance with the requirements of this chapter (12 VAC 5-585-370B)  
18 shall bear the name and certificate number of the certified land applicators with an  
19 approved statement attesting that they were onsite at the times of the reported operations  
20 and that those operations were in compliance with the permit. The following parts of this  
21 chapter apply to any individual seeking a certificate of competence as required in §32.1-  
22 164.6 of the Code of Virginia.  
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24 B. Certificates of competence shall be issued by the Department to certified land  
25 applicators. The Department may issue such certification based on specified areas of

1 training, experience and level of knowledge as demonstrated through successful  
2 completion of examinations as acceptable to the Department.

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4 **12VAC 5-585-770. Eligibility requirements.**

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6 A. Certification may be obtained by satisfying all of the following requirements:

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8 1. Satisfactorily completing and submitting to the Department an application in the form  
9 required by the Department, including a statement of any felony convictions. Such  
10 application shall be submitted to the Department at least 30 days before the scheduled  
11 examination date set by the Department. The application shall request information  
12 relating to the person's education, work experience, knowledge of land application of  
13 biosolids and applicable regulations, and willingness to abide by the requirements of this  
14 chapter.

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16 2. Supplying proof of meeting one of the following:

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18 a. A copy of a transcript or similar documentation indicating completion of a high school  
19 or higher degree or equivalent education level, with work experience in an agriculturally  
20 related area including farming, and three months of practical experience related to land  
21 application of biosolids acceptable to the Department, or

1 b. A combination of training acceptable to the Department that may include soil science  
2 or nutrient management or farming practice related educational training and a minimum  
3 of six months of practical experience related to land application of biosolids, or

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5 c. Evidence of prior supervisory level experience with land application of biosolids of  
6 two or more years that is acceptable to the Department.

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8 3. Obtaining a passing score on each part of the land applicators certification examination  
9 administered by the Department; and

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11 4. Submitting the required certification fee by check or money order to the Department.

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13 B. Certificates shall be valid upon notification by the Department and for two years  
14 following each renewal from the established renewal date and will expire on the last day  
15 of the expiration month. Certified land applicators or applicants shall notify the  
16 Department of any change in mailing address within 30 days of such change in address.

17  
18 C. The Department, upon review, may accept or approve land applicator certification  
19 programs of other states as satisfying partial requirements for certification.

20 Individuals certified as land application operators in other states under certification or  
21 licensing programs acceptable to the Department will be eligible for certification in

22 Virginia by complying with all requirements of these regulations except for subdivision  
23 A 2 of this section. These individuals may also substitute, for the requirements in this

1 chapter, 12VAC 5-585-790, the attainment of a passing score on a Virginia specific  
2 examination component which shall include at a minimum the elements listed in 12VAC  
3 5-585-790C 1 and C 6.

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5 **12 VAC 5-585-780. Fees.**

6 A. Fees shall be collected for certification and recertification to defray the administrative  
7 cost for the certification program.

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9 B. A fee may be charged to supply training materials and present education and training  
10 programs, including continuing education, which support the certification program.

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12 C. Fees are nonrefundable and shall not be prorated.

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14 D. The certification fee of \$100 for the initial certification period shall be due with the  
15 application for certification. If an applicant is unsuccessful in achieving a passing score  
16 on the examination, the applicant is eligible to retake the examination at a scheduled time  
17 as offered by the Department. Applicants may retake the examination one time with no  
18 additional charge by resubmitting the application for certification. Eligibility for any  
19 additional examinations beyond the initial retaking will require the submittal of an  
20 application and appropriate fees.

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22 E. The certificate of competence renewal fee is \$100.

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1 F. All fees collected by the Department shall be used exclusively for the operation of the  
2 Land Applicator Training and Certification Program.

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4 **12 VAC 5-585-790. Examination.**

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6 A. The Department may offer the land applicator certification examinations on request  
7 and will schedule an examination at least once per year. The examinations shall require a  
8 demonstration of the ability to ensure that biosolids will be land applied in compliance  
9 with the requirements of this chapter. The Department may limit the number of  
10 applicants taking the examination based upon available examination space.

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12 B. Applicants for a certificate of competence shall achieve a passing score on each part of  
13 the land applicator certification examination to become eligible for certification. If  
14 applicants receive a passing score on any part of the examination they will only be  
15 retested on the remaining parts.

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17 C. The examinations for qualified applicants for a certificate of competence in  
18 accordance with this chapter shall address the elements listed below.

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20 1. General understanding of biosolids treatment processes and biosolids characteristics;

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22 2. Basic principles of soils, agriculture, and silviculture;

23

1 3. Public health protection concepts;

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3 4. Land application concepts and site management and operations;

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5 5. Occupational safety and health protection concepts; and

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7 6. Land application training and certification regulatory requirements, and requirements

8 of other land application related laws, regulations, and incentive programs.

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11 D. An individual who is unable to take an examination at the scheduled time shall notify

12 the Department at least five days prior to the date of the examination; such individual

13 may reapply for an examination. The Department may consider accepting notice of less

14 than five days due to individual hardship situations on a case-by-case basis. Failure to

15 notify the Department may require the individual to submit a new application and

16 payment of fees in accordance with 12 VAC 5-585-780.

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18 E. The Department shall establish acceptable passing scores for the examinations based

19 on the Department's determination of the level of examination performance required to

20 show minimal acceptable competence.

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22 F. All applicants shall be notified of results in writing within 60 days of the completion of

23 the examinations.

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G. A certificate renewal date will be established and provided to the certified land applicator.

**12 VAC 5-585-800. Training.**

A. The Department shall provide training sessions on the various topics essential to ensure that land application of biosolids complies with state and federal laws and regulations at least annually.

B. The Department may provide a training course on concepts supporting and relating to land application of biosolids which may include: biosolids use regulation; basic soil and crop science; soil fertility; environmental management; and other relevant topics.

**12 VAC 5-585-810. Certificate renewal.**

The Department may not renew a certificate if a proceeding to deny certification under 12 VAC5-585-830 has begun, or if the Department has found that the applicant violated any requirements of this chapter. A certificate is to be renewed every two years and may be renewed on or before the expiration of a certificate by complying with all of the following requirements:

- 1. Submittal of a renewal application on the form the Department requires;

1 2. Payment of the renewal fee to the Department;  
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3 3. Submittal of proof of satisfactory completion of at least four hours of continuing  
4 education course work within the past two years. The completed course work must be  
5 approved by the Department as providing satisfactory training. Requests for pre-approval  
6 of continuing education courses should be received at least 60 days prior to the expected  
7 course date(s) and must include a detailed syllabus indicating time to be spent on each  
8 topic area covered. Continuing education course work must be in subject matter  
9 consistent with 12 VAC5-585-790 C. Department personnel may attend continuing  
10 education sessions to verify that the requirements are met. Proof of attendance must be  
11 verified by the course provider. The Department may accept continuing education units  
12 obtained in other states if such continuing education units are specifically for the purpose  
13 of recertification in the state land application operator certification program.

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15 **12 VAC 5-585-820. Certificate expiration.**

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17 A. Certificates issued under this chapter shall expire two years from the last day of the  
18 month in which they were issued, as indicated on the certificate, if any of  
19 the requirements of 12 VAC 5-585-810 are not met.

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21 B. Following the expiration of a certificate, reinstatement may be accomplished only by  
22 reapplication and compliance with all requirements of 12 VAC5-585-770 A, including  
23 the examination requirements.

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1 C. It is the responsibility of the certified land applicators to accumulate the required  
2 continuing education requirements prior to expiration of the certificate of competence  
3 they hold. The Department will attempt to notify the certified land applicators of any  
4 continuing education needs and other requirements as necessary for certificate renewal 90  
5 days or more prior to certificate expiration.

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7 **12 VAC 5-585-830. Compliance with regulations and disciplinary action.**

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10 A. If the Department finds that a certified land applicator or an applicant for certification  
11 violated any applicable requirements of this chapter, including the procedural violations  
12 listed in part B of this section, the Department may deny, suspend or revoke certification,  
13 following the informal fact-finding procedures of the Virginia Administrative Process  
14 Act (§2.2-4019 et seq. of the *Code of Virginia*).

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16 B. Certification procedural violations include:

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18 1. Providing misleading, false, or fraudulent information in applying for a certificate;

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20 2. Providing the Department with any misleading, false, or fraudulent report;

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22 3. Failing to ensure that land application of biosolids complies with permit requirements  
23 in accordance with Sections 490 through 510 of this chapter due to negligence of  
24 responsibilities by the certified land applicator;

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1 4. Failing to promptly and accurately record observed permit non-compliance or, failure  
2 to promptly notify the permittee of observed permit non-compliance or, preventing access  
3 to inspect any land application site or, failure to provide required field records upon  
4 request, in accordance with this chapter; and

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6 5. Conviction of a felony related in any way to the responsibilities of a certified land  
7 applicator.

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